

## William Caton

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**From:** David Senzel  
**Sent:** Friday, October 26, 2007 4:21 PM  
**To:** William Caton  
**Subject:** FW: Copy of letter to Chairman Martin

**Attachments:** Document.pdf



Document.pdf (285 KB)

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OCT 26 2007

Federal Communications Commission  
Office of the Secretary

07-51

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Attorney work Product of David S. Senzel

-----Original Message-----

From: Moore, Tess [mailto:TMoore@NGA.ORG]  
Sent: Wednesday, October 24, 2007 11:02 AM  
To: michael.copps@fcc.gov; Jonathan Adelstein; dtaylor@tateweb; Robert McDowell  
Cc: Parkhurst, David  
Subject: Copy of letter to Chairman Martin

Dear Commissioner Copps, Commissioner Adelstein, Commissioner Tate, and Commissioner McDowell -

Please find attached a copy of an NGA letter to Chairman Martin on the Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments

Should you have any questions, please contact David Parkhurst at [dparkhurst@nga.org](mailto:dparkhurst@nga.org)

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October 24, 2007

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 8B-201  
Washington, D.C. 20554

RE: In the Matter of Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments, MB Doc. No. 07-51 (NPRM FCC 07-32)

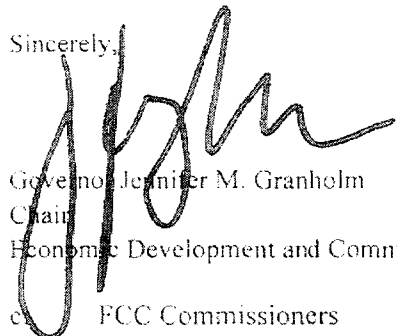
Dear Chairman Martin:

The nation's governors urge the Federal Communications Commission ("FCC") to delay final action in the above-captioned matter because of the lack of substantive statistical data on the record regarding the actual use, impact from, and duration of exclusive multiple-dwelling unit ("MDU") contracts. The real cost to state authority over contracts and real property from federal preemption is greater than any perceived benefit from swift action.

As reported, the FCC's proposed rules would forbid certain kinds of agreements between cable operators and similar multichannel video programming distributors and MDU owners. The FCC reportedly finds authority to take these actions in Section 628 of the Communications Act. Congress, however, recognized that states are fully capable of deciding how to govern these relationships. In 1984, Congress considered, and rejected, a provision that would have explicitly prohibited exclusive agreements, suggesting that Congress wanted these issues left to state law and the marketplace. Some 20 states have already passed laws that prohibit one form of exclusivity or another. Others have considered and rejected such an approach. Notably, no state that passed a prohibition on exclusive agreements reached back to abrogate existing contracts.

Governors urge a delay in final action in this matter, and we remain committed to working with federal policymakers and the communications industry in support of continued development and growth of a competitive communications industry for the benefit of consumers and the national economy.

Sincerely,



Governor Jennifer M. Granholm  
Chair,  
Economic Development and Commerce Committee  
cc: FCC Commissioners



Governor M. Michael Rounds  
Vice Chair  
Economic Development and Commerce Committee